

Translation

PATENT COOPERATION TREATY
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference WA-0912	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/JP2004/005104	International filing date (day/month/year) 09.04.2004	Priority date (day/month/year) 11.04.2003
International Patent Classification (IPC) or national classification and IPC		
<p>Applicant ORIGINAL IMAGE CO., LTD.</p>		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/JP2004/005104

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

the international application as originally filed/furnished
 the description:
 pages _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____

the claims:
 nos. _____ as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* _____ received by this Authority on _____
 nos.* _____ received by this Authority on _____

the drawings:
 sheets _____ as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/JP2004/005104

Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	1 - 6	YES
	Claims	7 - 10	NO
Inventive step (IS)	Claims	1 - 6	YES
	Claims	7 - 10	NO
Industrial applicability (IA)	Claims	1 - 10	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

Document 1: JP 2813471 B (Yamanouchi Pharmaceutical Co., Ltd.), 22 October 1998

Document 2: JP 2000-281584 A (Yamanouchi Pharmaceutical Co., Ltd.), 10 October 2000

Document 3: JP 11-116498 A (Yamanouchi Pharmaceutical Co., Ltd.), 27 April 1999

Document 4: Tierärztliche Umschau, 1996, Vol. 51, No. 6, pages 371 to 375 (abstract), BIOSIS [online] STN, AN. 1996: 366825, DN. PREV199699089181

Document 5: J. Neuroendocrinology, 1995, Vol. 7, No. 5, pages 387 to 392, abstract, Table 1

Document 6: Oriental Medicine, 1997, Vol. 25, No. 10, pages 56 to 58

Document 7: JP 2003-510344 A (Drugtech Corporation), 18 March 2003

Document 8: Japanese Journal of Oriental Medicine, 2001, Vol. 51, No. 6, page 205

Document 9: J. Duiy Sci., 2003, Vol. 86, Suppl. 1, page 12

Document 10: Nihon Funin Gakkai Zasshi, 1985, Vol. 30, No. 2, pages 156 to 162

Document 11: WO 98/44005 A1 (Kampou Foundation), 8

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/JP2004/005104Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

October 1998

Document 3 sets forth a macrophagy activator containing pumpkin seed, safflower, *Plantago asiatica* and *Lonicera japonica* as active ingredients, therefore the invention of dietary supplements or functional foods set forth in claims 7 to 10 of this application lacks novelty and does not involve an inventive step.

Documents 1 to 11 do not indicate that the pumpkin seed, safflower, *Plantago asiatica* and *Lonicera japonica* set forth in claims 1 to 6 serve as a follicle-stimulating hormone releasing agent, and it would not be obvious to a person skilled in the art to constitute such an invention in this manner, therefore the invention set forth in claims 1 to 6 is novel and involves an inventive step.